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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,096	01/03/2006	Benny Andersson	ABE-38828	4195
116 7590 05/28/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER ALL, MOHAMMAD M				
ART UNIT		PAPER NUMBER		
3744				
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05/28/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,096

Applicant(s)

ANDERSSON ET AL.

Examiner

MOHAMMAD M. ALI

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "refrigerant is connected to --- two or more evaporators (21, 28) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. None of the Figs. 1-2 even the new Fig. 3 is showing the connection that the two evaporators 21 and 28 are connected.

The new drawing (Fig. 3) is objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: (50) and . Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. Fig. 3 is not included in brief description and not included in the detail description

Specification

The amendment filed 03/13/08 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Fig. 3 and numeral (50) are not supported by the original disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Art Unit: 3744

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The Specification fails to follow the above outlined procedures. The Specification totally fails to show the brief summary of the invention. Although the description of Figures may relate to brief description of Fig. but it fails to show several views of the drawings including the drawing for the Fig. 3. Same way description of an Illustrative embodiment may relate to detail description of the invention but it fails to show the detail description of Fig. 3. Appropriate correction should be made without inclusion of new matter

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Alsenz (4,679,404). Alsenz discloses a refrigerating system comprising one compressor (10/12/14) that via closed circuit containing a circulating refrigerant is connected to a condenser (18) and two or more evaporators (27, 29) characterized in that the circuit comprises a container (20 including the line portion 22) communicating with the condenser (18) and having at least a first outlet (23) communicating with at least one evaporator (29) via a first valve (25), the container (20 including line portion 22) being arranged to receive and temporarily store a certain volume of refrigerant flowing from the condenser (18), the container (20 including line portion 22) also being provided with at least a second outlet (24) with valve (26) communicating with one or several the additional evaporators (27) to circulate the remaining part of the refrigerant through the at least one of the last mentioned evaporators (27) when the volume has been stored in the container (20 including line portion 22), the second outlet (24) being positioned above the first outlet (23). See Fig.1, column 4, line 23 to column 5, line 15.

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Alsenz (4,679,404). Alsenz discloses a refrigerating system providing one compressor (10/12/14) for operating a refrigeration system which is providing a closed circuit containing a refrigerant that in the vapor state is compressed to a high pressure gas; gradually condensing the gas into a condensate by way of a condenser (18); providing a container (20 including line portion 22) being arranged to receive and temporarily store a certain volume of the condensate flowing from the condenser (18); temporarily

Art Unit: 3744

collecting a portion of the condensate within the container (20 including the line portion 22) as a non-circulating, hidden volume for later evaporation in a first evaporator (29); and that circulating at least a part of the remaining condensate through a second evaporator (27) when the hidden volume has been filled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alsenz in view of TOSHIBA AVE KK (TOSA) (JP 10-122676 A). Alsenz discloses the invention substantially as claimed as stated above except the location of the container being at the lower part of the condenser. TOSA teaches the use of a container 11 being positioned at the lower part of a condenser 3 in a refrigerating system for the purpose of supplying refrigerant to two or more evaporators (7-10), See Fig. 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was

made to modify the refrigerating system of Alsenz in view of TOSA such that the container can be configured at the lower part of the condenser in order to supply refrigerant to the evaporators.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alsenz in view of Dienhart et al., (6,189,334). Alsenz discloses the invention substantially as claimed as stated above except the suction pipe being arranged in heat exchange relationship with a container. Dienhart et al., teach the use of a container its suction line (19) being arranged in heat exchange relationship (20) with a container (14) in a refrigeration system for the purpose of heat is transferred from the refrigerant in the container (14) to the refrigerant in the suction line (19). See Figs. 1-5, column 2, line 30—o column 4, line 4. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the refrigerating system of Alsenz in view of Dienhart et al., such that the suction pipe being arranged in a heat exchange relationship with a container in order to exchange heat between refrigerant coming flowing through the suction line and refrigerant flowing through receiver/collector tank. Regarding claim 5, Dienhart et al disclose the container (14) which have an outlet (22) for suction gas and an outlet (19) for compressed gas/liquid (16) at the bottom of the condenser (11) and thus Dienhart et al., obviously read claim 5 too.

Response to Arguments

Applicant's arguments filed 03/13/08 have been fully considered but they are not persuasive. The Applicant argued that Alsenz has only a single outlet 22 which divides into lines 23 and 24 at the same side of the receiving vessel. The Examiner disagrees.

The Examiner considers two outlets 23 and 24 considering the line portion 22 as part of the container 20 because the line portion 22 is integral with container 20. Although the two outlets are on the same side of container 20 outlet 24 is heading upward and outlet 23 is heading other than upward. It is not possible having a single outlet to feed in two different directions. Therefore, Alsenz has only a single outlet is not true. The Applicant further argued that Alsenz cannot temporarily hide a volume of warm condensate. The Examiner again disagrees. The container 20 of Alsenz is capable of hiding/keeping a portion of the high pressure warm condensate/refrigerant coming from the condenser 18 in it during operation of the refrigeration cycle because the container 20 has some more space with more larger diameter than its outlets and it does not allow the whole volume of refrigerant filled in it at a time to flow through its outlets. Therefore, Alsenz cannot temporarily hide a volume of warm condensate is not true. The Applicant further argued that using the system of Alsenz, a volume of condensate may be collected in the receiving vessel 20 only if the two valves 25 and 26 are closed. Although this argument is not related to the claimed invention yet the Examiner does agree to this comment/argument. It does not matter whether the valves 25 and 26 are closed or open container 20 is always able to hold some amount of refrigerant in it because it cannot allow move whole volume of refrigerant in it at time its larger dimension than the valves 25 and 26 as mentioned above. Therefore, Alsenz cannot provide the advantage because of the above argument is not correct. The Applicant further compared the configuration of Fig. 1 of Alsenz with configuration of the invention and argued that this configuration is not possible with the system of Alsenz. The Examiner Answer is that it

does not matter if the configuration of Alsenz drawing is exactly the same with the configuration of drawing of the invention but it matters that configuration of Alsenz is sufficient to read the claimed invention and so the argument of the Applicant is not acceptable. Regarding the noted part of the Applicant for Fig. 4, the examiner is also noting that the Examiner did not refer Fig. 4 on page 4. The examiner clearly considering Fig. 1 and also put down all relevant element from Fig. 1 in the rejection and also mention in page 4 for Fig. 1 except the typo mistake for column and lines. The examiner also believes that excluding the column and lines the elements supplied from Fig. 1 is sufficient for an individual to compare and judge the correctness of the rejections by simply viewing the Fig. 1 and the Examiner also believes that when an individual is able to read the Fig. 4 without having any reference in the rejection particularly for Fig. 4, the individual is quite able to find the column and lines for Fig. 1 also. However, for avoidable typo mistake the Examiner is really feeling uncomfortable and correcting the reading material for Fig. 1, as column 10, line 27 to column 11, and line 52. The Applicant requested for dependent claims 2-6 that claims 2-6 depend directly or indirectly from independent claim 1, and argued that claims 2-6 are allowable. The Examiner disagrees again. The Examiner notices that there is no further basis of argument individually for claims 2-6 but only reason of allowability of claim 1 the claims 2-6 can be allowable. As replied above regarding claim 1 and establishing that claim 1 is not allowable, therefor, for having for no other reason for allowability for claims 2-6, claims 2-6 are also not allowable. Regarding claim 7, how Alsenz reference reads the claim 7 and the examiner separately furnished the reading material for easy

understanding and concludes that claim 7 is not also allowable as may be verified the rejection above. Regarding claim 5, the Applicant argued that TOSA (JP-10-122676) does not disclose or suggest that the container is an integrated part of the condenser, as is required by claim. A container does not need to be an integral part of the condenser when its teaching is relevant for the meeting the ingredients needed for a 103 rejection. However, Applicant also fails to show that the container 19 is an integral part of the condenser. However, it is possible to consider a container is integral part of the other component when it is serially and physically connected each other as like the Applicant's container 16 although it is seen separated from condenser 14 the examiner does not have any problem to consider it as an integral part of the condenser as it is next to each other and physically connected each other. On the other hand a container like a receiver may be practically attached or integral in a composite manner and this feature is known in the art as may be seen US Patent 6,189,334 B1 to Dienhart et al., wherein a receiver/container 14 is integrated with a condenser 11.

Therefore, rejections are correct. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3744

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad M. Ali whose telephone number is 571-272-4806. The examiner can normally be reached on maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mohammad M Ali/
Primary Examiner, Art Unit 3744